

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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CARLOS PEREZ,

Plaintiff,

vs.

9:10-CV-518

RAYMOND FURINA, et al.,

Defendants.

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Thomas J. McAvoy,  
United States District Judge

**DECISION & ORDER**

This case, brought pursuant 42 U.S.C. § 1983, alleges that Defendants violated Plaintiff's constitutional rights by subjecting him to excessive force and medical indifference during his incarceration in New York. The case was referred to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation, dated January 19, 2016, recommended that the Court dismiss the case for Plaintiff's failure to comply with the exhaustion requirements stated in 42 U.S.C. § 1997(e)(a).

Plaintiff filed timely objections to the Report-Recommendation. When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo*" determination of those portions of the report or specified proposed findings or

recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1). After such a review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

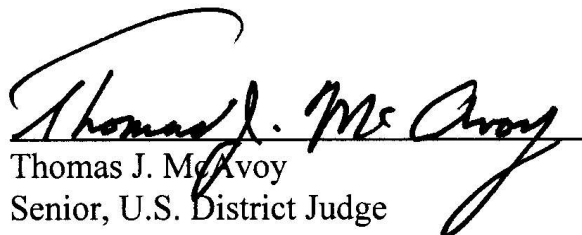
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff’s objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Hummel for the reasons stated in the Report-Recommendation.

It is therefore

**ORDERED** that the Plaintiff’s objections to the Report-Recommendation of Magistrate Judge Hummel, dkt. # 175, are hereby OVERRULED. The Report-Recommendation, dkt. # 169, is hereby ADOPTED, and Plaintiff’s Complaint is hereby DISMISSED with prejudice.

**IT IS SO ORDERED.**

Dated: March 29, 2016

  
Thomas J. McAvoy  
Senior, U.S. District Judge